

UNITED STATES DISTRICT COURT

Eastern

District of

Pennsylvania

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

BARILYNN BERGER

FILED

JUL 14 2011

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

Case Number:

DPAE2:10CR000349-001

USM Number:

26785-057

Elizabeth Toplin, Esq.
Defendant's Attorney**THE DEFENDANT:**☒ pleaded guilty to count(s) 1 and 2.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18:1341 and 2.	Mail fraud and aiding and abetting.	1-9-2009	1
18:1343 and 2.	Wire fraud and aiding and abetting	11-29-2008	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

cc
E. Toplin, Esq
R. Kornylak, AUSA
U.S. Probation (2) cc
U.S. Pretrial (1) cc
U.S. M.S. (2) cc
Fiscal (1) cc
Flu (1) cc
S/T

July 11, 2011

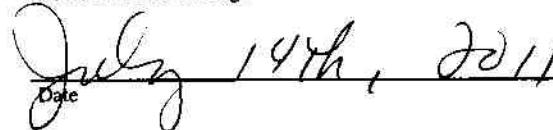
Date of Imposition of Judgment



Signature of Judge

HON. CYNTHIA M. RUFÉ, USDJ EDPA

Name and Title of Judge



Date

DEFENDANT: Berger, Barri Lynn
CASE NUMBER: DPAE2:10CR000349-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

60 months on each of counts 1 and 2, all terms to run concurrently to each other.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends that defendant be classified to an institution as close to North Carolina as possible where she can access intensive mental health treatment and medical treatment and have the opportunity to obtain her GED. The Court further recommends that if defendant is to be transported by the Bureau of Prisons or the United States Marshal Service it should not be by air.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on or before August 10, 2011.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Berger, Bari Lynn
CASE NUMBER: DPAE2:10CR000349-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

3 years on each of counts 1 and 2, all terms shall run concurrently to each other.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Berger, Bari Lynn
CASE NUMBER: DPAE2:10CR000349-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in a mental health program for evaluation and/or treatment as approved by the Court after receiving a recommendation by the U.S. Probation Office. The defendant shall remain in treatment until satisfactorily discharged with the approval of the Court.

Defendant shall provide her probation officer with full disclosure of her financial records to include yearly income tax returns. The defendant shall cooperate with her probation officer in the investigation of her financial dealings and shall provide truthful monthly statements of her income.

Defendant shall not incur any new credit card charges or open additional lines of credit without the approval of her probation officer unless the defendant is in compliance with a payment schedule for any court ordered financial obligations. Defendant shall not encumber or liquidate interest in any assets unless it is in direct service her Court ordered fine or restitution obligation or otherwise has the express approval of the Court.

DEFENDANT: Berger, Bari Lynn

CASE NUMBER: DP AE2:10CR000349-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$ NONE	\$ 1,706,180.09

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

SEE SHEET ATTACHED

TOTALS	\$	<u>1,706,180.09</u>	\$	<u>1,706,180.09</u>
--------	----	---------------------	----	---------------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

103,250.00 Signed
10,000.00 Signed
8,000.00 Signed
4,600.00
500.00 Signed
13,015.00
80,885.00
14,000.00 Signed
300.00 Signed
300.00 Signed
300.00 Signed
100.00
300.00 Signed
11,500.00 Signed
300.00 Signed
200.00 Signed
9,000.00 Signed
1,000.00 Signed
1,000.00
600.00 Signed
4,400.00 Signed
9,700.00 Signed
161,250.00
8,500.00 Signed
500.00 Signed
350.00 Signed
200.00 Signed
100,750.00 Signed
2,750.00 Signed
11,500.00 Signed
3,000.00 Signed
7,000.00 Signed
8,000.00 Signed
38,000.00 Signed
2,500.00 Signed
56,938.00 Signed
350.00 Signed
2,000.00 Signed
4,000.00 Signed
300.00 Signed

7